

Remarks

Claims 1-21, 23, 24 and 28 remain in the application. Reconsideration of the rejections and objections at an early date is requested.

Claims 1-21, 23, 24 and 28 were rejected under 35 U.S.C. 103(a) as being unpatentable over Hickie (Publication No. US2004/0129273 A1) and Jackson (U.S. Patent No. 5,513,634) in view of Farr (U.S. Patent No. 3,802,431). Applicant again traverses the reasons set forth by the examiner.

In rejecting claim 1, the examiner again concedes in the first paragraph on page 4 of the Office Action, Hickie makes no reference to the essential feature of *means for attaching the manifold to the patient so as to hold the manifold in position on the patient when the manifold is disengaged from the bite block; and when the gas distribution manifold is disengaged from the bite block and the bite block is removed from the mouth of the patient the oral outlet port is adapted to direct gas over or toward the mouth of the patient*. The examiner however then goes on in the second paragraph on page 4 to state that Jackson discloses both a separate cannula and the supply of oxygen towards the mouth of the patient. The examiner incorrectly states that Jackson teaches the simultaneous supply of oxygen both orally and nasally. Clearly Jackson only teaches the supply of oxygen nasally. There are no air passages to or through the bite block, and all of the drawings clearly show that oxygen is only supplied to the nasal passages.

The examiner further contends that Figure 2 of Jackson teaches that the bite block may be disengaged from the gas distribution manifold. This is not correct, because Jackson never discusses or suggests the possibility that the bite block could be separated from the nasal cannula. Jackson includes repeated references to the disadvantages of using a separate cannula with a separate bite block (see e.g. column 1, lines 46 to 51, and column 2, lines 15 to 17). Jackson also explicitly teaches that the nasal cannula and the bite block are made into one *integral* unit prior to usage. It should be noted that Figure 2 of Jackson merely shows an exploded view of the device "*prior to assembly*", and in no way suggests that the bite block

and the cannula can be separated post-procedure. Specifically, column 4, lines 36 to 41, of Jackson states it is a *requirement* that the cannula and the bite block be bonded together.

Even if it were to be argued that Jackson shows a separate cannula, the Jackson cannula does not have an attachment means and would not be capable of directing oxygen over or towards the mouth of the patient since there are no air passages in Jackson which lead towards the mouth of the patient. There would not be any such air passages since Jackson does not provide oxygen to the patient via the bite block.

Jackson provides neither suggestion nor motive for providing an attachment means. Jackson has no need for an attachment means because when in use the entire device is firmly held in place when the bite block is within the mouth of the patient. When the bite block is removed from the mouth of the patient the nasal cannula will also be removed, since the two components are bonded together. If the patient still requires oxygen after the bite block has been removed then a new item of equipment (such as that shown by Farr) will need to be provided.

The examiner asserts that the combination of Jackson and Farr would somehow enable the skilled person to modify Hickle so as to provide the claimed invention. As explained above, Jackson teaches away from providing an attachment means, and, further, Jackson specifically discourages using a cannula of the type described by Farr. For instance, Jackson states (at column 1, lines 53 to 58) “the loops over the ears” (used in Farr) are awkward draping tubes and not desirable. Since Jackson does not teach a separable cannula and bite block, and does not teach the oral supply of oxygen to the patient, it is difficult to see how Jackson can possibly assist in overcoming the admitted deficiencies in Hickle.

The reasoning above applies also to the rejection of independent claims 21 and 28. Since the remaining claims are all dependent, either directly or indirectly on one of claims 1, 21 or 28, these claims should also be allowable.

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Therefore, it is respectfully requested that the examiner allow claims 1-21, 23, 24 and 28.

No fees are believed due. If, however, the Commissioner believes any additional fees are due, the Commissioner is hereby authorized to charge any such fee deficiency, or credit any fee overpayment, to Deposit Account No. 14-0629.

Respectfully submitted,

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/Jo Anne Tyson /
JoAnne Tyson

March 23, 2009
Date